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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,941	12/21/2000	Paul A. Moskowitz	YOR9-2000-0277 (1963-4982)	7284
28062	7590	01/12/2004	EXAMINER	
BUCKLEY, MASCHOFF, TALWALKAR LLC 5 ELM STREET NEW CANAAN, CT 06840			BARRETT, SUZANNE LALE DINO	
			ART UNIT	PAPER NUMBER
			3676	
DATE MAILED: 01/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/740,941

Applicant(s)

MOSKOWITZ ET AL.

Examiner

Suzanne Dino Barrett

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10/21/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,5,9-23 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hall et al 6,026,375. Hall et al clearly teach a method of conducting e-commerce between a merchant and a customer with a wireless transmitter 9col. 5, lines 48-58). Hall et al teach a process including a customer identifier (col. 4, line 22), a code component which checks inventory (col. 4, line 27-29; col. 9, lines 21-24 and lines 34-36), and a customer database 374 on the customer communication device which stores and provides customer private data including past purchases, usual orders, preferences and the like, and a financial database which provides payment information.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3,4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al '375. Hall teaches the method of processing using a customer identifier (col. 4, line 22) which is not specifically specified, however, it would have been obvious to one of ordinary skill in the art to use a well known verification means including message authentication code or a digital signature to verify the customer as taught by Hall et al .

1. Claims 6,7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al '375 in view of Treyz et al 6,587,835. Treyz et al specifically teach the use of a Bluetooth enabled wireless device (col. 13, lines 28-32) or a radio communications device (col. 12, lines 61-62). It would have been considered an obvious matter of design choice to use any of the multitude of portable wireless communications means as taught by Treyz et al in the method of Hall et al.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al in view of Henrick 6,507,727. Henrick teaches the use of a WAP communications device (col. 1, line 44-45). It would have been considered an obvious matter of design choice to use the WAP type portable wireless communications means as taught by Henrick in the method of Hall et al.

***R s p o n s   t o   A r g u m e n t s***

5.      Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

In response to Applicant's amendments, the claims are now rejected in view of the previously cited patents to Hall et al, Henrick, and Treyz. As set forth above, these patents teach the use of customer preference lists and inventory checks in the course of e-commerce using personal wireless communication means.

Accordingly, claims 1-23 stand rejected.

***C o n c l u s i o n***

6.      The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Also, again note the previously cited patents to Mosher et al '408 (inventory check feature), Musgrove '880, Petrovich '483, Esposito '374, Schlafly '858, Hall et al '375, Cupps et al '739, Baker '599, Claus '079; and the Bluetooth article cited by Applicant as reference (I) on the 1449.

7.      Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Dino Barrett whose telephone number is 703-308-0825. The examiner can normally be reached on M-Th 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.



Suzanne Dino Barrett  
Primary Examiner  
Art Unit 3676

sdb